IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI

THE ACTING CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION No. 13758 of 2005

Between:

Subhash Gupta, s/o late Lekhraj Gupta,
r/o 308, Pasha Court, Panjagutta, Hyderabad.

..... PETITIONER

AND

The Commissioner of Customs & Central Excise, Hyderabad, Commissionerate I, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an order, direction or writ, more particularly, one in the nature of Writ of Mandamus declaring the order dated 11-05-2005 made in Application being E/Stay/11/2005 in Appeal being E/11/2005 passed by the Customs, Excise & Service Tax Appellate Tribunal, South Zonal Bench, FICCI-WTC Building, at Bangalore, imposing condition of pre-depositing an amount of Rs.1,00,000/- within 3 months, failing which the appeal stands dismissed, as illegal, arbitrary, unjust and unreasonable.

Counsel for the Petitioner: Mr. P.PURUSHOTHAM REDDY

Counsel for the Respondent: MR.A.RAJASHEKAR REDDY

(ASST SOLICITOR GEN)

The Court made the following :

ORAL ORDER:

(per Honourable Sri Bilal Nazki, the Acting Chief Justice)

This is a Writ Petition filed against the order passed by the Customs, Excise & Service Tax Appellate Tribunal, South Zonal Bench, Bangalore. Admittedly, the liability is about Rs.20.00 lakhs and in terms of Rule 209A of the Central Excise Rules before entertaining the appeal by the Tribunal, the petitioner was obliged to deposit the amount of penalty i.e. Rs.20.00 lakhs and also the confirmed demand, which is to the tune of Rs.39,58,160/-. However, the Tribunal used its discretion and directed deposit of Rs.1.00 lakh within a period of three months for the purpose of entertaining the appeal. We do not find that the discretion has been used by the Tribunal in favour of the petitioner and we do not think that there is any ground for us to intervene in the matter. The Writ Petition is dismissed.

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BILAL NAZKI, ACJ.

28.6.2005.

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G.CHANDRAIAH, J.

VR.

To

1. The Commissioner of Customs & Central Excise, Hyderabad, Commissionerate I, Hyderabad.

2. Two CD copies.